

SENATE BILL 3341

By McNally

AN ACT to amend Tennessee Code Annotated, Title 2; Title 3; Title 4; Title 8; Title 12; Title 33; Title 36; Title 37; Title 39; Title 40; Title 41; Title 45; Title 49; Title 50; Title 53; Title 55; Title 56; Title 57; Title 63; Title 67; Title 68 and Title 71, relative to state departments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-7-112(a)(3)(B)(iii), is amended by deleting the language "mental health and developmental disabilities" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 2. Tennessee Code Annotated, Section 3-15-506, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health, department of intellectual and developmental disabilities".

SECTION 3. Tennessee Code Annotated, Section 4-3-101(16), is amended by deleting the language "Department of mental health and developmental disabilities" and by substituting instead the language "Department of mental health".

SECTION 4. Tennessee Code Annotated, Section 4-3-101, is amended by adding the following language as a new, appropriately designated subdivision:

() Department of intellectual and developmental disabilities;

SECTION 5. Tennessee Code Annotated, Section 4-3-104(h), is amended by deleting the subsection in its entirety.

SECTION 6. Tennessee Code Annotated, Section 4-3-111(16), is amended by deleting the subdivision in its entirety and by adding the following language as new, appropriately designated subdivisions:

() Commissioner of mental health, for the mental health;

() Commissioner of intellectual and developmental disabilities, for the department of intellectual and developmental disabilities;

SECTION 7. Tennessee Code Annotated, Section 4-3-113(i), is amended by deleting the subsection in its entirety.

SECTION 8. Tennessee Code Annotated, Section 4-3-1016(d)(54), is amended by deleting the language "Department of mental health and developmental disabilities" and by substituting instead the language "Department of mental health".

SECTION 9. Tennessee Code Annotated, Title 4, Chapter 3, Part 16, is amended by deleting the part in its entirety and by substituting instead the following language:

§ 4-3-1601.

(a) There is created the department of mental health.

(b) The general functions of the department are to coordinate, set standards for, plan for, monitor, and promote the development and provision of services and supports to meet the needs of persons with mental illness or serious emotional disturbance through the public and private sectors in this state as set out in title 33, with exclusive control over those services and supports as set out in title 33, chapter 6.

§ 4-3-1602.

(a) The department of mental health shall be in the charge of a commissioner, who shall be appointed by the governor in the same manner as are other commissioners and who shall have the same official status as other commissioners.

(b) The commissioner shall hold office at the pleasure of the governor, and the commissioner's compensation shall be fixed by the governor and paid from the appropriation available to such department.

(c) The commissioner shall be appointed without regard to residence on the basis of merit as measured by administrative abilities and a demonstrated quality of leadership, and must have a recognized graduate degree as a psychiatrist, doctor of medicine, behavioral scientist, social scientist, educator or other profession involved with human development, human welfare or human relations, with experience in public administration; and shall further have a professional background in the area of mental illness or serious emotional disturbance, and an understanding of the conditions of mental health, human development, human welfare and social services.

(d) No person shall be eligible to appointment as commissioner unless such person is at least thirty (30) years of age and have five (5) years of administrative experience, including at least three (3) years of full time management experience in private enterprise, private practice or public service.

§ 4-3-1603.

(a) The department of mental health has exclusive jurisdiction and control over the mental health facilities of the state, regardless of the names by which the facilities are known.

(b) The department, through its appropriate officials, has the duty and power to provide the best possible care for persons with mental illness or serious emotional disturbance in the state by improving existing facilities, by developing future facilities and programs, and by adopting a preventive program for mental illness and serious emotional disturbance, all as provided in title 33, with exclusive control over those services and supports as set out in title 33, chapter 6.

SECTION 10. Tennessee Code Annotated, Title 4, Chapter 3, is amended by adding the following language as a new part 27:

§ 4-3-2701.

(a) There is created the department of intellectual and developmental disabilities.

(b) The general functions of the department are to coordinate, set standards for, plan for, monitor, and promote the development and provision of services and supports to meet the needs of persons with intellectual and developmental disabilities through the public and private sectors in this state as set out in title 33, with exclusive control over those services and supports as set out in title 33, chapter 5.

§ 4-3-2702.

(a) The department of intellectual and developmental disabilities shall be in the charge of a commissioner, who shall be appointed by the governor in the same manner as are other commissioners and who shall have the same official status as other commissioners.

(b) The commissioner shall hold office at the pleasure of the governor, and the commissioner's compensation shall be fixed by the governor and paid from the appropriation available to such department.

(c) The commissioner shall be appointed without regard to residence on the basis of merit as measured by administrative abilities and a demonstrated quality of leadership, and must have a recognized graduate degree as a psychiatrist, doctor of medicine, behavioral scientist, social scientist, educator or other profession involved with human development, human welfare or human relations, with experience in public administration; and shall further have a professional background in the area of developmental disabilities, and an understanding of the conditions of human development, developmental disabilities, human welfare and social services.

(d) No person shall be eligible to appointment as commissioner unless such person is at least thirty (30) years of age and have five (5) years of administrative

experience, including at least three (3) years of full time management experience in private enterprise, private practice or public service.

§ 4-3-2703.

(a) The department of intellectual and developmental disabilities has exclusive jurisdiction and control over the developmental disabilities facilities of the state, regardless of the names by which the facilities are known.

(b) The department, through its appropriate officials, has the duty and power to provide the best possible care for persons with intellectual and developmental disabilities in the state by improving existing facilities, by developing future facilities and programs, and by adopting a preventive program for intellectual and developmental disabilities, all as provided in title 33, with exclusive control over those services and supports as set out in title 33, chapter 5.

§ 4-3-2704.

(a) In order to discharge the functions of this department relative to intellectual disabilities services, there is hereby created within the department the division of intellectual disabilities services.

(b) The commissioner shall assign to the division those functions and duties relative to intellectual disabilities services imposed upon the department as of the effective date of this act. The commissioner may assign additional functions and duties determined appropriate by the commissioner.

(c) The commissioner may abolish any division or create such new divisions as are necessary to carry out the duties imposed upon the department.

SECTION 11. Tennessee Code Annotated, Section 4-29-233(a), is amended by adding the following language as a new, appropriately designated subdivision:

() Department of intellectual and developmental disabilities, created by § 4-3-101 and 4-3-2701.

SECTION 12. Tennessee Code Annotated, Section 4-29-234(a)(9), is amended by deleting the language "Department of mental health and developmental disabilities" and by substituting instead the language "Department of mental health".

SECTION 13. Tennessee Code Annotated, Section 4-29-234(a)(10), is amended by deleting the language "Department of mental health and developmental disabilities, statewide planning and policy council," and by substituting instead the language "Statewide planning and policy council for the department of mental health and the department of intellectual and developmental disabilities,".

SECTION 14. Tennessee Code Annotated, Section 4-31-703(1), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(1) "Commissioner" means the commissioner of mental health when referenced in provisions relating to mental health facilities or centers and means the commissioner of intellectual and developmental disabilities when referenced in provisions relating to intellectual and developmental disabilities facilities or centers;

SECTION 15. Tennessee Code Annotated, Section 4-31-703(3), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(3) "Department" means the department of mental health when referenced in provisions relating to mental health facilities or centers and means the department of intellectual and developmental disabilities when referenced in provisions relating to developmental disabilities facilities or centers;

SECTION 16. Tennessee Code Annotated, Section 4-31-706, is amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner" and is further amended by deleting the

language "mental health and developmental disabilities facilities" and by substituting instead the language "mental health or developmental disabilities facilities".

SECTION 17. Tennessee Code Annotated, Section 4-31-710(a)(2), is amended by deleting the language "mental retardation" and by substituting instead the language "developmental disabilities".

SECTION 18. Tennessee Code Annotated, Section 4-31-711, is amended by deleting the language "and developmental disabilities" and by substituting instead the language ", intellectual and developmental disabilities".

SECTION 19. Tennessee Code Annotated, Section 8-42-101(3)(D), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities", and is further amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health or the commissioner of intellectual and developmental disabilities".

SECTION 20. Tennessee Code Annotated, Section 12-2-117(a), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(a) All property owned or held by mental health or developmental disabilities facilities and controlled by either the department of mental health or the department of intellectual and developmental disabilities which is not in use may be sold or leased in accordance with the provisions of this part. The procedures for selling or leasing such property shall be those required by law and the state building commission for other state owned real property.

SECTION 21. Tennessee Code Annotated, Section 12-4-330(a)(1), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health".

SECTION 22. Tennessee Code Annotated, Title 33, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department" except as otherwise provided in this act.

SECTION 23. Tennessee Code Annotated, Section 33-1-101(6), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(6) "Commissioner" means the commissioner of mental health when the statute at issue relates to mental illness or serious emotional disturbance and means the commissioner of intellectual and developmental disabilities when the statute at issue relates to intellectual and developmental disabilities;

SECTION 24. Tennessee Code Annotated, Section 33-1-101(9), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(9) "Department" means the department of mental health when the statute at issue deals with mental illness or serious emotional disturbance and means the department of intellectual and developmental disabilities when the statute at issue deals with intellectual and developmental disabilities;

SECTION 25. Tennessee Code Annotated, Section 33-1-401, is amended by deleting the section in its entirety and by substituting instead the following language as a new § 33-1-401:

(a) There is created the statewide planning and policy council for the department of mental health and the department of intellectual and developmental disabilities to assist in planning a comprehensive array of high quality prevention, early intervention,

treatment, and habilitation services and supports and to advise the department on policy, budget requests, and developing and evaluating services and supports.

(b)

(1) The statewide planning and policy council shall be composed of not less than sixteen (16) members, not including ex officio members. The governor shall appoint the chair of the council. The speaker of the senate and the speaker of the house of representatives shall each appoint one (1) legislator as a member of the council. The commissioner of mental health and the commissioner of intellectual and developmental disabilities shall jointly serve, ex officio, as secretaries to the council and, if the chair is not present at a meeting, shall designate a member to serve as chair for the meeting. The governor is ex officio a member of the council and may appoint representatives of state agencies as ex officio members of the council.

(2) The commissioner of mental health shall appoint five (5) members to represent mental health, of which, two (2) shall be service recipients or members of families of service recipients, one (1) shall be a representative for children, one (1) shall be a mental health service provider, and one (1) shall represent others affected by mental health issues. Additionally, the commissioner of mental health shall appoint one (1) representative for elderly service recipients and at least one (1) at-large representative.

(3) The commissioner of intellectual and developmental disabilities shall appoint five (5) members to represent intellectual and developmental disabilities, of which, two (2) shall be service recipients or members of families of service recipients, one (1) shall be a representative for children, one (1) shall be a intellectual and developmental disabilities service provider, and one (1) shall

represent others affected by intellectual and developmental disability issues.

Additionally, the commissioner of intellectual and developmental disabilities shall appoint one (1) representative for elderly service recipients and at least one (1) at-large representative.

(4) At least a majority of the council's membership shall consist of current or former service recipients and members of service recipient families.

(c) The members of the statewide planning and policy council shall receive no compensation, but shall receive their actual traveling expenses for attendance at meetings of the council. All reimbursement for travel expenses shall be in conformity with the comprehensive travel rules.

(d) The statewide planning and policy council shall meet quarterly at a place designated by the chair and may meet more often upon the call of the chair or a majority of the members.

(e) Terms on the council shall be three (3) years except that the chair and members appointed by the speakers shall have terms of two (2) years.

(f) The appointing authority may remove a member for failure to attend at least one half (1/2) of the scheduled meetings in any one (1) year period or for other good cause.

SECTION 26. Tennessee Code Annotated, Section 33-1-402, is amended by deleting the section in its entirety and by substituting instead the following language as a new § 31-1-402:

(a) The statewide planning and policy council shall advise the commissioner of mental health and the commissioner of intellectual and developmental disabilities as to plans and policies to be followed in the service systems and the operation of the department of mental health and the department of intellectual and development

disabilities programs and facilities, recommend to the general assembly legislation and appropriations for the programs and facilities, advocate for and publicize the recommendations, and publicize generally the situation and needs of persons with mental illness, serious emotional disturbance, or intellectual and developmental disabilities and their families.

(b) The statewide planning and policy council shall especially attend to:

(1) Identification of common areas of concern to be addressed by the service areas;

(2) The needs of service recipients who are children or elderly and of service recipients with combinations of mental illness, serious emotional disturbance, intellectual and developmental disabilities, or alcohol or drug abuse or dependence;

(3) Evaluation of needs assessment, service, and budget proposals;

(4) Reconciliation of policy issues among the service areas; and

(5) Annual review of the adequacy of this title to support the service systems.

(c) The statewide planning and policy council, in conjunction with the commissioner of mental health and the commissioner of intellectual and developmental disabilities, shall report annually to the governor on the service systems, including programs, services, supports, and facilities of the department of mental health and the department of intellectual and developmental disabilities, and may furnish copies of the reports to the general assembly with recommendations for legislation. The statewide planning and policy council may make other reports to the governor and to the general assembly as the council deems necessary. The commissioner of mental health and the

commissioner of intellectual and developmental disabilities shall make the reports available to the public, including on the Internet and by other appropriate methods.

SECTION 27. Tennessee Code Annotated, Section 33-3-404, is amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health".

SECTION 28. Tennessee Code Annotated, Title 33, Chapter 5, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of intellectual and developmental disabilities".

SECTION 29. Tennessee Code Annotated, Section 33-5-401(a), is amended by deleting the language "commissioner of finance and administration" and by substituting instead the language "commissioner of intellectual and developmental disabilities".

SECTION 30. Tennessee Code Annotated, Title 33, Chapter 6, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health".

SECTION 31. Tennessee Code Annotated, Section 36-3-106(b), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities".

SECTION 32. Tennessee Code Annotated, Section 37-1-128(e)(1)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

If, during the pendency of any proceeding under this chapter, there is reason to believe that the child may be suffering from mental illness, the court may order the child to be evaluated on an outpatient basis by a mental health agency or a licensed private practitioner designated by the commissioner of mental health to serve the court. If, during the pendency of any proceeding under this chapter, there is reason to believe that

the child may be suffering from a developmental disability, the court may order the child to be evaluated on an outpatient basis by a mental health agency, developmental center or a licensed private practitioner designated by the commissioner of intellectual and developmental disabilities to serve the court. The outpatient evaluation shall be completed no more than thirty (30) days after receipt of the order by the examining professional.

SECTION 33. Tennessee Code Annotated, Section 37-1-128(e)(1)(B), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities", and is further amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health or the commissioner of intellectual and developmental disabilities".

SECTION 34. Tennessee Code Annotated, Section 37-1-128(e)(2)(C), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities".

SECTION 35. Tennessee Code Annotated, Section 37-1-128(e)(5), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities".

SECTION 36. Tennessee Code Annotated, Section 37-1-128(e)(6), is amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health or the commissioner of intellectual and developmental disabilities".

SECTION 37. Tennessee Code Annotated, Section 37-1-504(a), is amended by deleting the language "mental health and developmental disability" and by substituting instead the language "mental health, intellectual and developmental disability,".

SECTION 38. Tennessee Code Annotated, Section 37-1-603(b)(1), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health, department of intellectual and developmental disabilities".

SECTION 39. Tennessee Code Annotated, Section 37-1-605(b)(1), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of intellectual and developmental disabilities".

SECTION 40. Tennessee Code Annotated, Section 37-3-111(b), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(b) The council shall be co-chaired by the executive director of the commission on children and youth and the commissioner of mental health, or their designees.

SECTION 41. Tennessee Code Annotated, Section 37-3-111(c)(1), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(1) The commissioners of children's services, finance and administration, health, human services, education, mental health, and intellectual and developmental disabilities, or their designees;

SECTION 42. Tennessee Code Annotated, Section 37-3-111(c)(3), is amended by deleting the language "Two (2) persons from the department of mental health and developmental disabilities who are selected by the commissioner " and by substituting instead the language " Two (2) persons from the department of mental health who are selected by the commissioner of mental health".

SECTION 43. Tennessee Code Annotated, Section 37-3-113(6), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health and the department of intellectual and developmental disabilities".

SECTION 44. Tennessee Code Annotated, Section 37-3-605, is amended by deleting the language "departments of children's services and mental health and developmental disabilities" and by substituting instead the language "departments of children's services, mental health, and intellectual and developmental disabilities".

SECTION 45. Tennessee Code Annotated, Section 37-5-106(a)(1), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities".

SECTION 46. Tennessee Code Annotated, Section 37-5-106(a)(8), is amended by deleting the language "mental health and developmental disabilities" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 47. Tennessee Code Annotated, Section 37-5-107(f), is amended by deleting the language "departments of health and mental health and developmental disabilities" and by substituting instead the language "departments of health, mental health, and intellectual and developmental disabilities".

SECTION 48. Tennessee Code Annotated, Section 37-5-109(3), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(3) The department of mental health and the department of intellectual and developmental disabilities shall license or approve and supervise any institution, treatment resource, group residence, boarding home, sheltered workshop, activity center, rehabilitation center, hospital, community mental health center, counseling

center, clinic, halfway house or other entity, by these or other names, providing mental health or developmental disability services, respectively, or as required by title 33, chapter 2, part 4. Exceptions to the department of intellectual and developmental disabilities licensing responsibilities concerning the aforementioned categories are contained in § 33-5-402;

SECTION 49. Tennessee Code Annotated, Section 37-5-603(a)(2), is amended by deleting the language "and mental health and developmental disabilities" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 50. Tennessee Code Annotated, Title 39, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health", and is further amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health".

SECTION 51. Tennessee Code Annotated, Title 40, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health", and is further amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health".

SECTION 52. Tennessee Code Annotated, Title 41, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health", and is further amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health".

SECTION 53. Tennessee Code Annotated, Section 45-2-105(3), is amended by deleting the language "commissioner of mental health and developmental disabilities" and by

substituting instead the language "commissioner of mental health or the commissioner of intellectual and developmental disabilities".

SECTION 54. Tennessee Code Annotated, Section 49-1-520(a), is amended by deleting the language "mental health and developmental disabilities" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 55. Tennessee Code Annotated, Section 49-6-101(f)(5), is amended by deleting the language "mental health and developmental disabilities" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 56. Tennessee Code Annotated, Section 49-6-802(b)(4), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(4) A representative of the department of mental health;

SECTION 57. Tennessee Code Annotated, Section 49-6-802(b), is amended by adding the following language as a new, appropriately designated subdivision:

() A representative of the department of intellectual and developmental disabilities;

SECTION 58. Tennessee Code Annotated, Section 49-6-805(5), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health, the department of intellectual and developmental disabilities".

SECTION 59. Tennessee Code Annotated, Section 49-6-3004(c)(1), is amended by deleting the language "department of education and the department of mental health and developmental disabilities" and by substituting instead the language "departments of education, mental health, and intellectual and developmental disabilities".

SECTION 60. Tennessee Code Annotated, Section 49-6-4213(h), is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health".

SECTION 61. Tennessee Code Annotated, Section 49-6-6101, is amended by deleting the language "departments of education and mental health and developmental disabilities" and by substituting instead the language "departments of education, mental health, and intellectual and developmental disabilities", and is further amended by deleting the language "mental retardation" and by substituting instead the language "intellectual and developmental disabilities".

SECTION 62. Tennessee Code Annotated, Section 49-10-1306, is amended by deleting the language "department of education, the department of mental health and developmental disabilities, and the department of children's services," and by substituting instead the language "departments of education, mental health, intellectual and developmental disabilities, and children's services,".

SECTION 63. Tennessee Code Annotated, Section 49-11-704(a), is amended by deleting the language "fifteen (15)" and by substituting instead the language "sixteen (16)".

SECTION 64. Tennessee Code Annotated, Section 49-11-704(a)(1), is amended by adding the following language as a new, appropriately designated subdivision:

() The department of intellectual and developmental disabilities;

SECTION 65. Tennessee Code Annotated, Section 49-11-704(a)(1)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(A) The department of mental health;

SECTION 66. Tennessee Code Annotated, Section 49-11-704(a)(2), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(2) The remaining nine (9) members shall be appointed by the commissioner from among private organizations and agencies concerned with persons with disabilities, to serve for staggered terms of four (4) years each. In appointing the nine (9) remaining members to the board, to the extent possible, the assistant commissioner shall appoint the board's members to ensure appropriate representation on the board based upon gender and ethnicity.

SECTION 67. Tennessee Code Annotated, Section 50-1-104, is amended by deleting the language "and mental health and developmental disabilities" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 68. Tennessee Code Annotated, Section 50-1-602, is amended by deleting the language "and mental health and developmental disabilities" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 69. Tennessee Code Annotated, Section 53-11-408(c), is amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health or the commissioner of intellectual and developmental disabilities", and is further amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health or the department of intellectual and developmental disabilities".

SECTION 70. Tennessee Code Annotated, Section 53-11-411(a), is amended by deleting the language "department of safety, department of mental health and developmental disabilities, department of health" and by substituting instead the language "department of safety, department of mental health, department of intellectual and developmental disabilities, department of health".

SECTION 71. Tennessee Code Annotated, Section 53-11-411(c), is amended by deleting the language "mental health and developmental disabilities " and by substituting instead "mental health, intellectual and developmental disabilities".

SECTION 72. Tennessee Code Annotated, Title 55, is amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "department of mental health", and is further amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioner of mental health".

SECTION 73. Tennessee Code Annotated, Section 56-2-125(c)(7)(A)(iii), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(iii) The commissioner of mental health or the commissioner of mental health's designee;

SECTION 74. Tennessee Code Annotated, Section 56-2-125(c)(7)(A), is amended by adding the following language as a new, appropriately designated subdivision:

() The commissioner of intellectual and developmental disabilities or the commissioner of intellectual and developmental disabilities' designee;

SECTION 75. Tennessee Code Annotated, Section 56-2-125(d)(2)(B), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health, the department of intellectual and developmental disabilities".

SECTION 76. Tennessee Code Annotated, Section 56-7-2601(a)(4)(B), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 77. Tennessee Code Annotated, Section 56-7-2601(c)(3), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 78. Tennessee Code Annotated, Section 56-7-2602(b)(2)(B), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 79. Tennessee Code Annotated, Section 56-7-2903(b), is amended by deleting the language "composed of thirteen (13) members" and by substituting instead the language "composed of fourteen (14) members", and is further amended by adding the following language as a new, appropriately designated subdivision:

() The commissioner of intellectual and developmental disabilities or the commissioner's designee;

SECTION 80. Tennessee Code Annotated, Section 56-7-2903(b)(3), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(3) The commissioner of mental health or the commissioner's designee;

SECTION 81. Tennessee Code Annotated, Section 57-5-205(1), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health".

SECTION 82. Tennessee Code Annotated, Section 63-11-206(g), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 83. Tennessee Code Annotated, Section 63-11-208(e), is amended by deleting the language "with practice restriction to recipients in a mental retardation facility under the department of mental health and developmental disabilities" and by substituting instead the language "with practice restriction to recipients in an intellectual and developmental disabilities facility under the department of intellectual and developmental disabilities".

SECTION 84. Tennessee Code Annotated, Section 67-4-2109(g)(2)(E), is amended by deleting the language "the department of health, the department of mental health and developmental disabilities, the division of rehabilitation services of the department of human services, the department of finance and administration, the division of intellectual disabilities services of the department of finance and administration" and by substituting instead the language "the department of health, the department of mental health, the department of intellectual and developmental disabilities, the division of intellectual disabilities services of the department of intellectual and developmental disabilities, the division of rehabilitation services of the department of human services, the department of finance and administration".

SECTION 85. Tennessee Code Annotated, Section 68-1-1202(7), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(7) Assist the department of mental health in providing suitable programs of alcohol and drug education and prevention for LEAs, as required by § 68-24-103;

SECTION 86. Tennessee Code Annotated, Section 68-1-1202(11)(B)(ii), is amended by deleting the language "the departments of mental health and developmental disabilities" and by substituting instead the language "the departments of mental health, intellectual and developmental disabilities".

SECTION 87. Tennessee Code Annotated, Section 68-5-402, is amended by deleting the language "the department of mental health and developmental disabilities" and by

substituting instead the language "the department of mental health, the department of intellectual and developmental disabilities".

SECTION 88. Tennessee Code Annotated, Section 68-11-201(3), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 89. Tennessee Code Annotated, Section 68-11-201(20)(D), is amended by deleting the language "commissioner of mental health and developmental disabilities" and by substituting instead the language "commissioners of mental health and intellectual and developmental disabilities", and is further amended by deleting the language "department of mental health and developmental disabilities" and by substituting instead the language "departments of mental health and intellectual and developmental disabilities".

SECTION 90. Tennessee Code Annotated, Section 68-11-201(29)(B), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(B) "Hospital" does not include any hospital or institution, operated by the department of mental health or the department of intellectual and developmental disabilities, specially intended for use in the diagnosis, care and treatment of those suffering from mental illness, developmental disabilities, convulsive disorders, or other abnormal mental conditions;

SECTION 91. Tennessee Code Annotated, Section 68-11-216(a)(3)(A), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(A) Home care organizations that also pay a fee to be licensed by the department of mental health or the department of intellectual and developmental disabilities;

SECTION 92. Tennessee Code Annotated, Section 68-11-224(c), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 93. Tennessee Code Annotated, Section 68-11-310(a)(1), is amended by deleting the language "the department of health or by the department of mental health and developmental disabilities" and by substituting instead the language "the departments of health, mental health, or intellectual and developmental disabilities".

SECTION 94. Tennessee Code Annotated, Section 68-11-830(a), is amended by deleting the language "the commissioner of mental health and developmental disabilities in the case of any facility that is both licensed by the department of mental health and developmental disabilities" and by substituting instead the language "either the commissioner of mental health or the commissioner of intellectual and developmental disabilities in the case of any facility that is both licensed by the department of mental health or the department of intellectual and developmental disabilities".

SECTION 95. Tennessee Code Annotated, Section 68-11-830(b), is amended by deleting the language "the commissioner of mental health and developmental disabilities" and by substituting instead the language "either the commissioner of mental health or the commissioner of intellectual and developmental disabilities relative to the facilities under each entity's jurisdiction".

SECTION 96. Tennessee Code Annotated, Section 68-11-830(c), is amended by deleting the language "the commissioner of mental health and developmental disabilities" and by substituting instead the language "the commissioners of mental health and intellectual and developmental disabilities".

SECTION 97. Tennessee Code Annotated, Section 68-11-830(d)(6)(B), is amended by deleting the language "the commissioner of mental health and developmental disabilities" and by substituting instead the language "either the commissioner of mental health or the commissioner of intellectual and developmental disabilities".

SECTION 98. Tennessee Code Annotated, Section 68-11-1607(a)(8), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "either the department of mental health or the department of intellectual and developmental disabilities".

SECTION 99. Tennessee Code Annotated, Section 68-11-1608(a), is amended by deleting the language "The departments of health and mental health and developmental disabilities" and by substituting instead the language "The departments of health, mental health, and intellectual and developmental disabilities".

SECTION 100. Tennessee Code Annotated, Section 68-11-1609(a)(1)(A), is amended by deleting the language "the departments of health or mental health and developmental disabilities" and by substituting instead the language "the departments of health, mental health, or intellectual and developmental disabilities".

SECTION 101. Tennessee Code Annotated, Section 68-11-1609(d), is amended by deleting the language "the department of health or the department of mental health and developmental disabilities" and by substituting instead the language "the departments of health, mental health, or intellectual and developmental disabilities".

SECTION 102. Tennessee Code Annotated, Section 68-11-1609(f), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health, the department of intellectual and developmental disabilities".

SECTION 103. Tennessee Code Annotated, Section 68-11-1614(a), is amended by deleting the language "The commissioners of health and mental health and developmental disabilities" and by substituting instead the language "The commissioners of health, mental health, and intellectual and developmental disabilities".

SECTION 104. Tennessee Code Annotated, Section 68-11-1615, is amended by deleting the language "The commissioners of health and mental health and developmental disabilities" and by substituting instead the language "The commissioners of health, mental health, and intellectual and developmental disabilities".

SECTION 105. Tennessee Code Annotated, Section 68-11-1619(5), is amended by deleting the language "the department of health or department of mental health and developmental disabilities" and by substituting instead the language "the departments of health, mental health, or intellectual and developmental disabilities".

SECTION 106. Tennessee Code Annotated, Section 68-11-1625(d)(8), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(8) To review the health status of Tennesseans as presented annually to the planning division by the department of health, the department of mental health, and the department of intellectual and developmental disabilities;

SECTION 107. Tennessee Code Annotated, Section 68-14-303(4), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the departments of mental health and intellectual and developmental disabilities".

SECTION 108. Tennessee Code Annotated, Section 68-24-701, is amended by deleting the language "the commissioner of mental health and developmental disabilities" and by substituting instead the language "the commissioner of mental health".

SECTION 109. Tennessee Code Annotated, Section 68-55-102(a)(2)(B), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(B) One (1) member who is knowledgeable on TBI shall represent the departments of mental health and intellectual and developmental disabilities, to be selected from up to two (2) nominees of the department of mental health and two (2) nominees of the department of intellectual and developmental disabilities;

SECTION 110. Tennessee Code Annotated, Section 68-142-103(7), is amended by deleting the subdivision in its entirety and by substituting instead the following language:

(7) The commissioner of mental health;

SECTION 111. Tennessee Code Annotated, Section 68-142-103, is amended by adding the following language as a new, appropriately designated subdivision:

() The commissioner of intellectual and developmental disabilities;

SECTION 112. Tennessee Code Annotated, Section 71-1-112(b)(3), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the departments of mental health and intellectual and developmental disabilities".

SECTION 113. Tennessee Code Annotated, Section 71-1-129, is amended by deleting the language "and mental health and developmental disabilities" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 114. Tennessee Code Annotated, Section 71-2-104(c)(1)(G), is amended by deleting the language "and mental health and developmental disabilities" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 115. Tennessee Code Annotated, Section 71-3-154(k)(2)(A)(i)(d), is amended by deleting the language "the department of mental health and developmental

disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 116. Tennessee Code Annotated, Section 71-3-507(g)(1)(A), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health, the department of intellectual and developmental disabilities".

SECTION 117. Tennessee Code Annotated, Section 71-4-703(a), is amended by deleting the language "and mental health and developmental disabilities" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 118. Tennessee Code Annotated, Section 71-4-2103(a), is amended by deleting the language "consist of eleven (11) members and shall be composed as follows: the commissioners of education, human services, mental health and developmental disabilities" and by substituting instead the language " consist of twelve (12) members and shall be composed as follows: the commissioners of education, human services, mental health, and intellectual and developmental disabilities".

SECTION 119. Tennessee Code Annotated, Section 71-5-148(a), is amended by deleting the language "department of health and the department of mental health and developmental disabilities" and by substituting instead the language "departments of health, mental health, and intellectual and developmental disabilities".

SECTION 120. Tennessee Code Annotated, Section 71-6-103(c), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of intellectual and developmental disabilities".

SECTION 121. Tennessee Code Annotated, Section 71-6-103(k)(2), is amended by deleting the language " the department of mental health and developmental disabilities and the division of mental retardation services of the department of finance and administration" and by

substituting instead the language "the department of mental health and the department of intellectual and developmental disabilities, and the division of intellectual disabilities services of the department of intellectual and developmental disabilities".

SECTION 122. Tennessee Code Annotated, Section 71-6-107(a)(5)(A), is amended by deleting the language "the department of mental health and developmental disabilities" and by substituting instead the language "the department of mental health or the department of intellectual and developmental disabilities".

SECTION 123. Tennessee Code Annotated, Section 71-6-113(a), is amended by deleting the language "the department of mental health and developmental disabilities, the department of health" and by substituting instead the language "the departments of mental health, intellectual and developmental disabilities, and health,".

SECTION 124. Tennessee Code Annotated, Section 71-6-113(b), is amended by deleting the language " the department of mental health and developmental disabilities, the department of health, and the division of mental retardation services of the department of finance and administration" and by substituting instead the language "the departments of mental health, intellectual and developmental disabilities, health, and the division of intellectual disabilities services of the department of intellectual and developmental disabilities".

SECTION 125. Any provision of this act, or application thereof, which is inconsistent with federal law, rule or regulation shall be deemed to be construed as being consistent with federal law, rule or regulation.

SECTION 126.

(a) Notwithstanding any law to the contrary, upon the effective date of this act, all duties of the department of mental health and intellectual and developmental disabilities and the department of finance and administration, whose duties fall within those duties required to be performed by the department of intellectual and

developmental disabilities pursuant to this act, shall be transferred to the department of intellectual and developmental disabilities.

(b) Notwithstanding any law to the contrary, upon the effective date of this act, all employees of the department of mental health and intellectual and developmental disabilities and the department of finance and administration, whose duties fall within those duties transferred to the department of intellectual and developmental disabilities pursuant to this act, shall be transferred to the department of intellectual and developmental disabilities.

(c) All reports, documents, surveys, books, records, papers or other writings in the possession of the department of mental health and intellectual and developmental disabilities or the department of finance and administration with respect to administering the provisions of Tennessee Code Annotated, Title 33, Chapter 5, assigned to the department of intellectual and developmental disabilities by this act, shall be transferred to and remain in the custody of the department of intellectual and developmental disabilities.

(d) All leases, contracts and all contract rights and responsibilities in existence with the department of mental health and intellectual and developmental disabilities and the department of finance and administration with respect to the duties transferred by this act to the department of intellectual and developmental disabilities shall be preserved and transferred to the department of intellectual and developmental disabilities.

(e) All assets, liabilities and obligations of the department of mental health and intellectual and developmental disabilities and the department of finance and administration with respect to the duties transferred by this act to the department of

intellectual and developmental disabilities shall become the assets, liabilities and obligations of the department of intellectual and developmental disabilities.

SECTION 127.

(a) Contracts or leases entered into prior to the effective date of this act, with respect to any program or function transferred to the department of intellectual and developmental disabilities with any entity, corporation, agency, enterprise or person, shall continue in full force and effect as to all essential provisions in accordance with the terms and conditions of the contracts in existence on the effective date, to the same extent as if such contracts had originally been entered into by and between such entity, corporation, agency, enterprise or person and the department of intellectual and developmental disabilities, unless and until such contracts or leases are amended or modified by the parties thereto or until the expiration of such contract.

(b) The provisions of this act shall not be implemented in any manner which violates the prohibition against impairment of contract obligations as contained in Article 1, Section 20, of the Constitution of Tennessee.

SECTION 128. Upon the effective date of this act, the department of intellectual and developmental disabilities, through its commissioner, shall have the authority to receive, administer, allocate, disburse and supervise any grants and funds from whatever sources, including, but not limited to, the federal, state, county and municipal governments on a state, regional, county or any other basis, with respect to any programs or responsibilities outlined in this act or assigned to the department of intellectual and developmental disabilities by law, regulation or order. Exercise of this authority shall not be inconsistent with laws or regulations governing the appropriation and disbursement of funds as administered by the department of finance and administration.

SECTION 129. All current rules, regulations, orders, decisions and policies heretofore

issued or promulgated by an agency of state government whose functions have been transferred under this act to the department of intellectual and developmental disabilities shall remain in full force and effect and shall hereafter be administered and enforced by the department of intellectual and developmental disabilities. To this end, the department of intellectual and developmental disabilities, through its commissioner, shall have the authority, consistent with the statutes and regulations pertaining to the programs and functions transferred herein, to modify or rescind orders, rules and regulations, decisions or policies heretofore issued and to adopt, issue or promulgate new orders, rules and regulations, decisions or policies as may be necessary for the administration of the programs or functions herein transferred. In order to comply with the effective date set forth within this act, the department of intellectual and developmental disabilities may promulgate the department's initial rules as emergency rules in accordance with Tennessee Code Annotated, Section 4-5-208. Upon delivering a draft of any such emergency rules to the attorney general and reporter for approval as required by such section, the department of intellectual and developmental disabilities shall simultaneously deliver a copy of such draft emergency rules to the chair of the government operations committee of the senate and to the chair of the government operations committee of the house of representatives.

SECTION 130. The commissioner of mental health and developmental disabilities, the commissioner of mental health, the commissioner of intellectual and developmental disabilities, and the commissioner of finance and administration are authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 131. This act shall take effect January 1, 2011, the public welfare requiring it.